



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

1-24912

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR

on July 20, 2007

Signature

Typed or printed name Rosanna L. Lopez

Application Number

10/713,789

Filed

November 14, 2003

First Named Inventor

Alastrair James Buchanan, et al.

Art Unit

3663

Examiner

Ronnie M. Manch

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

 attorney or agent of record.Registration number 37,358 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

Allen W. Inks

Typed or printed name

419-255-5900

Telephone number

July 20, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

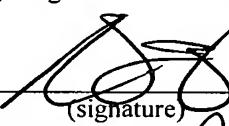
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify that this document is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner For Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date set forth below.



  
(signature)

Date of signature and deposit -

  
July 23 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
ALASTAIR JAMES BUCHANAN, et al. ) Group Art Unit 3663  
)  
Serial No. 10/713,789 ) Confirmation No. 8772  
)  
Filed: November 14, 2003 ) Examiner Ronnie M. Mancho  
)  
For: SENSING APPARATUS FOR ) Attorney Docket 1-24912  
VEHICLES )

---

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

ARGUMENTS ACCOMPANYING  
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Sir:

Pursuant to the procedure specified in the Notice published in the Official Gazette on July 12, 2005, a pre-appeal conference is requested in the present application for the following reasons.

Claims 1-23 are pending in the application. In the Office Action, dated March 23, 2007, these claims were finally rejected. The rejection of these claims is improper based upon errors in fact and upon the omission of elements required to establish a prima facie rejection.

§112 Rejections

Claims 2, 6, 11 and 15 were rejected under 35 USC §112, second paragraph, as being indefinite. The specific rejections are on Page 2, paragraph 3 of the Office

Action, dated March 23, 2007.

The response to the rejection of Claims 6 and 11 were proposed amendments (which the Examiner did not consider or provide feedback on) and proposed amendments are excluded from the Pre-Appeal Brief Request For Review process. Furthermore, the proposed response to the rejection of Claim 15 is to cancel Claim 15. **Therefore, Applicants are not requesting review of the rejection of Claims 6, 11, or 15.**

Applicants request a review of the rejection of Claim 2. Response to the rejection was provided in the Request for Reconsideration filed May 23, 2007. The Examiner presented further comments on the rejection in item 11 of the Advisory Action Before the Filing of an Appeal Brief , mailed June 14, 2007. In response to these further comments in the Advisory Action, Applicants provide the following comments: The quoted portion of the phrase in the Request for Reconsideration filed May 23, 2007, "is projected to be" indeed may have been better quoted more fully as "is projected to be in." However, the referenced portion of the phrase from Claim 2 "is... in" clearly refers to "lane" and not the "host vehicle" as the Examiner erroneously states in the Advisory Action. Factually, this is fairly simple English grammar: "...the processed estimate comprises an indicator of whether or not the target vehicle is in the ... lane." Which lane? "[T]he same lane as the host vehicle is projected to be in." With respect to the Examiner's statement in the Advisory Action, item 11, that the phrase "the point of the target vehicle" is not defined, Applicants refer to the text of Claim 1, on which Claim 2 depends, indicating that, "the host vehicle has traveled along the projected path by the distance to the target vehicle." This portion of Claim 1 could be substituted for the phrase "the point of the target vehicle" but in any case makes the meaning of "the point of the target vehicle " clear.

Examiner erroneously states that the phrase "where it has traveled as far as the target vehicle is currently away from the host vehicle" is not in the claims or even suggested by the claims. Factually, however, the definition of the first data processing apparatus contained in Claim 1 specifically requires that the apparatus is "configured to predict a target lane" and that the target lane is the "lane in which the host vehicle

will be located when it has traveled along the projected path by the distance to the target."

For all these reasons, the Examiner's rejection of Claim 2 under 35 USC 112 is not well founded, and should be overturned.

#### §102 Rejections

Claims 1 through 23 were rejected under 35 USC §102(b), as being anticipated by Sawamoto et al. (EP 0890470A2). The specific rejections are on Pages 4 and 5, paragraph 5 of the Office Action, dated March 23, 2007. Applicants request a review of the rejections under §102 of Claims 1 through 14, and 16 through 23 (since Applicants will be cancelling Claim 15 at the next opportunity):

The Examiner has erroneously stated (in the Office Action of March 23, 2007, bottom of page 3) that Sawamoto discloses an apparatus comprising "first data processing apparatus configured to predict a target lane (abstract, Fig. 3 and 4) in which the host vehicle will be located when it has traveled along the projected path by the distance to the target object (col. 9, lines 14-44 et. seq., Fig. 7)."

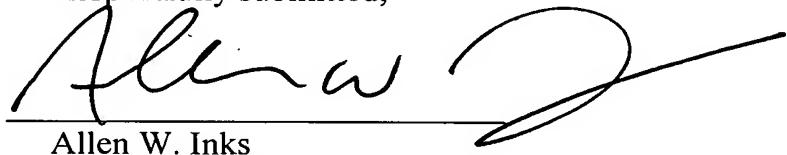
Applicants have tried to correct the Examiner of his error in understanding of the Sawamoto et al., including explanations in the Amendment filed November 27, 2006, pages 9 through 14 (particularly the two full paragraphs on page 13), and in the Request for Reconsideration filed May 23, 2007, pages 9 through 11, and particularly the paragraph beginning at the bottom of page 9, and the following two paragraphs.

In further response to the Final Office Action dated Feb. 23, 2007, and in response to the Advisory Action dated June 14, 2007, Applicant wishes to point out that, in the presently-claimed invention, the target lane is a prediction of which lane the host vehicle will be located when it has traveled by the distance to the target vehicle along the projected path. This target lane is compared to the position of the target vehicle. In Sawamoto, a projected path is calculated. However, **no special consideration is paid to the point on the projected path that is the distance to the target vehicle away from the host vehicle.** Sawamoto does not therefore calculate a target lane **as defined in Claim 1.** The target lane in Sawamoto is that in which the

host vehicle is changing instantaneously; it is **not** a prediction of the lane in which the host vehicle will be after it has traveled the defined distance. Therefore *Sawamoto does not disclose the prediction of the target lane as defined by Claim 1.* It therefore cannot compare the position of the target lane with the position of the target vehicle, also as required by Claim 1. Claim 1 is therefore novel over Sawamoto. Since an element of Claim 1, from which all of the other claims depend (directly or indirectly), is not taught by the Sawamoto (the only currently applied reference) there is an omission of an essential element required to establish a *prima facie* rejection of all pending claims under §102.

In view of the foregoing remarks and arguments, the rejection of Claim 2 under §112, and the rejection of the pending claims under §102, are clearly erroneous. Favorable reconsideration of the claims is respectfully requested.

Respectfully submitted,



Allen W. Inks  
Reg. No. 37,358

MacMillan, Sobanski & Todd, LLC  
One Maritime Plaza, Fifth Floor  
720 Water Street  
Toledo, Ohio 43604  
(419) 255-5900